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INFO RUCNCLS/ALL SOUTH AND CENTRAL ASIA COLLECTIVE PRIORITY

RUCNCIS/CIS COLLECTIVE PRIORITY

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RUEHAK/AMEMBASSY ANKARA PRIORITY 4840

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SUBJECT: TURKISH DIPLOMAT DESCRIBES RISKS AND COMPLEXITIES
OF DOING BUSINESS IN TURKMENISTAN

Classified By: Charge Richard Miles for reasons 1.4 (b) and (d).

11. (C) SUMMARY: A February 12 conversation with the Turkish Third Secretary yielded interesting insights on corruption and market access, the legal complexities of doing business here, and the role that intergovernmental economic commissions play in making it less risky for Turkmen officials to talk business with foreign companies. The bottom line is that even when foreign businesses learn how to navigate the Turkmen system, they still have to manage risk, including the potential for a run-in with the Turkmen legal system. Turkmen Government officials, for their own part, understand the difficulties of their bureaucracy, and appear to be creating more bureaucratic structures * in the form of intergovernmental commissions * to give them the presidential authorization they think they need to develop relationships with foreign companies. These complexities all conspire to present a challenging environment for companies who are willing and prepared to manage the risks. END SUMMARY.

MARKET ACCESS IS JUST A BOX OF CHOCOLATES AWAY

12. (C) The provision of bribes, large and small, is a standard part of the business culture here, according to Turkish Embassy Third Secretary, Hakan Cengiz. Such gifts must be offered to every interlocutor at every level. Although Turkmen business decision making is still very slow and opaque, bribes ensure the company has a better shot than competitors, and that the company will have to wait only a short time (days, or even hours) to get feedback on a proposal. (NOTE: This would be more likely with easy to understand construction projects as opposed to more technically complex business proposals. END NOTE.)

13. (C) Both businesses that have been in Turkmenistan for years and those seeking access to the market for the first time have to give gifts to be seriously considered. The gifts are considered favors, and their benefits are generally of short duration. The size of the bribe (rarely money, according to Hakan) usually corresponds to the size of the desired project or proposal. Cengiz said that, for example,

serious consideration of a \$100 million proposal would probably require a gift on the scale of a car for the senior official who decides whether to advocate for the proposal at the presidential level. Typical bribes up and down the chart might include a box of chocolates for an official,s receptionist, a watch for a mid-level official, or a piece of high-tech entertainment technology for someone more important.

MANAGING RISK WITHOUT RULE OF LAW

¶4. (C) Although corruption is a major issue, it is not the biggest one impeding commerce. The absence of rule of law is the most significant issue here, Cengiz said. As an example, he described a recent case the Turkish Embassy had worked on:

A Turkish company, which had been in Turkmenistan for several years, had been buying petrochemicals from Turkmen state enterprises and exporting them to a company in Afghanistan. Having exported the petrochemicals for several years, the company,s manager in Turkmenistan was surprised when the Turkmen tax service initiated an investigation to determine whether the company had failed to pay a value-added tax based on the sale of the chemicals in Afghanistan. The company manager was arrested and tried in a Turkmen court. The court, Cengiz said, determined that the company must pay a fine four times larger than the total amount of the taxes owed, and the company manager was sentenced to jail time. Cengiz said that the Turkmen court,s interpretation of the law made no sense because the Government was seeking to tax the chemicals at the price the company sold them at in another company, rather than at the price at which they were

ASHGABAT 00000231 002 OF 002

purchased.

¶5. (C) Cengiz opined that the Turkmen Government,s inability to properly interpret or enforce its own laws presented a major risk for companies. The Criminal Code still contains provisions, he said, that hold a company manager responsible for the mistakes of his subordinates. He added that construction site accidents, for example, no matter how minor the injury, routinely set off major legal issues for companies and put Turkish managers at risk.

INTERGOVERNMENTAL COMMISSIONS) BUREAUCRACY WITH A PURPOSE

¶6. (C) Cengiz said the Turkmen desire to establish intergovernmental commissions is a relatively new one. The Turkmen-Turkish commission, he said, had only met for the first time in 2007, and a second meeting was being planned for April 2009. He said the Turkmen want such commissions because they understand the problems and complexities of their own bureaucracy. The commissions are a needed element because they are comprised of senior government officials from both sides who together formulate a plan for economic cooperation in the next several years. No business representatives are in attendance. The Turkmen officials who attend have no authority to approve anything, but once a commission issues a &joint protocol8 outlining specific areas of cooperation, the protocol can then be sent to President Berdimuhamedov. Once he signs and stamps the protocol, the Turkmen officials then have an approved roadmap for economic partnership that will reduce their personal risk and authorize them to meet with companies. It also enables the foreign companies to then connect their proposals to specific elements of the protocol.

¶7. (C) COMMENT: These perspectives come from a Turkish diplomat who is commenting on the experiences of Turkish firms, making it difficult to ascertain whether similar practices occur in other foreign companies. Many of the Turkish firms, however, have been in Turkmenistan for more than a decade, and so offer a more experienced perspective. Regarding the Turkmen desire to create more bureaucracy to help them manage their existing bureaucracy, the creation of intergovernmental commissions would seem to provide the documentation upon which the bureaucracy depends. However,

we can also speculate that the commissions also serve the purpose of intertwining the business relationship with the bilateral political relationship. Then, the Government may view future contracts with that business as being backed, or even guaranteed, by the company,s home country. Regardless, these complexities all conspire to present a challenging environment for companies who are willing and prepared to manage the risk of work in Turkmenistan. END COMMENT.

MILES